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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/414,333	10/07/1999	GEORGE KRAFT IV	AT9-99-288	3165

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EXAMINER

CALLAHAN, PAUL E

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 09/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/414,333

Applicant(s)

KRAFT IV ET AL.

Examiner

Paul E. Callahan

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 October 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 October 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-24 are pending in this application and have been examined.

#### ***Information Disclosure Statement***

2. Two of the references supplied with the IDS have no relevance to the field of art in which the instant Application is found. International Publication WO 00/24809 is concerned with a method for the production of PET Granulates, and WO 00/09765 is concerned with a Shaft Furnace. Neither reference could be considered by the Examiner.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

4. Claims 7-9, 15, 16, 23 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims all contain limitations directed towards selecting encryption levels including a US, a French, and a non-French European encryption level. Because national requirements and laws regarding encryption strength, for example bit length, change over time, the claim language fails to adequately apprise one of ordinary skill in the art as to the scope of the invention. It cannot be determined from the claim language what type of encryption standards the Applicant contemplates being used embodied in the instant invention.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-7, 10-15, and 17-23 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Lambert et al. US Patent: US 6,470,447 B1.

As per claim 1, Lambert teaches an encryption method, comprising: determining a geographic location associated with a software program; selecting an encryption level based upon the determined geographic location; and executing the software program utilizing the selected encryption level (abstract, fig. 2, col. 2 lines 34-67, col. 4 lines 3-14).

As per claim 2, Lambert teaches wherein determining the geographic location comprises determining the geographic location of a computer system on which the software program will be executed (col. 2 lines 34-67).

As per claim 3, Lambert teaches determining the geographic location comprises receiving information from a Global Positioning System (col. 5 lines 10-13).

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As per claim 4, Lambert teaches the Global Positioning System comprises an I/O device of a computer system on which the software will execute (col. 5 lines 10-13, col. 10 lines 54-64).

As per claim 5, Lambert teaches overriding the selected encryption level responsive to receiving an encryption override signal (fig. 2 items 160-230; target device checks cryptor selection against cryptographic requirements for both locations, col. 7 lines 19-30).

As per claim 6, Lambert teaches the encryption override signal is received from a Smart Card I/O device of a computer system on which the software program will execute (col. 7 lines 31-44).

As per claim 7, Lambert teaches selecting an encryption level comprises selecting an encryption level from a set of encryption levels including at least a U.S. encryption level corresponding to a U.S. geographic location, a European encryption level corresponding to a non-French European geographic location, and a French encryption level corresponding to a French geographic location (abstract, fig. 2, col. 2 lines 34-67, col. 4 lines 3-14, Lambert clearly contemplates use of his system in the US and Europe as for example col. 3 lines 58-64 where the European GSM system is mentioned as an interoperable location).

As per claims 10-15, and claims 17-23, these claims represent the apparatus and the set of instructions embodied in a computer readable memory medium instructing the apparatus, for carrying out the method of claims 1-9, and are rejected on the same basis as those claims.

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***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 9, 16, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lambert and Official Notice taken infra.

As per claims 8, 9, 16, and 24, Lambert teaches all of the limitations of claims 7, 15, and 23 upon which the claims depend, however he does not teach that the U.S. encryption level comprises a 128-bit encryption level, or that the French encryption level comprises a 40-bit encryption level. However Official Notice may be taken that the use of 128 bit encryption in the US and 40 bit encryption in France, in communications protocols involving mobile computing devices is old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate these features into the system of Lambert. It would have been desirable to do so as this would increase the geographic areas in which the system of Lambert could operate and hence increase the utility of the system.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E. Callahan whose telephone number is (703) 305-1336. The examiner can normally be reached on M-F from 9 to 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Morse, can be reached on (703) 308-4789. The fax phone number for the organization where this application or proceeding is assigned is: (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

8/27/03

Paul Callahan